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# THE JERUSALEM POST

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JERUSALEM'S  
OUTFITTERS FOR MEN AND WOMEN  
V ROSENBLUM  
1 PRINCESS MARY AVE.

WEATHER FORECAST:  
A COLD WINTER. PREPARE FOR IT.

## EDITORIAL COLUMN

By GEORGE CLAY

**YOUTH** Africa is waiting for evidence which will have to be advanced to justify the claim that are over 100 men and women of all races on allegations of treason. Liberal-minded South Africans fear this may be the beginning of a new era of unprecedented harsh Government reaction to militant political opposition. The arrests were made as an influence measure of the African and Indian Congress and of white organizations which have closely allied themselves with non-violent movements. Unless proof is forthcoming of a revolutionary conspiracy between all these organizations — a point which is not now being entertained even in Nationalist circles — it seems the Government will base its case on the general political activity and utterances of these groups.

**THEY** may be found to have signed at organization of a united and unarmed front to "Freedom Charter" drawn up by a "Congress of the People" which demands equality for all, and they can perhaps be said to have built up a spirit of resistance to the apartheid laws. But no evidence has yet been produced to show they have openly incited people to violence or illegal action.

**THIS** country has been so shaken because there has never been a parallel for this action in South Africa's history, although during World War Two the Government had to cope with saboteurs and self-styled stormtroopers who openly drilled and prepared for a raid on the frontier, although the timing of the police action. Apart from the fact that the day chosen for the arrests was the Minister of Justice's 82nd birthday, there is much puzzlement as to why there should have been such a long interval between the "treason trials" last September when the police destroyed houses and offices and confiscated documents, and last week's arrests which are said to result from the evidence obtained in those raids.

**I**t is possible, too, that the Government, which has been criticised for legislating against Communism but not succeeding in stamping it out, may have felt that with the present upsurge of the Congress movement throughout the world, the moment is opportune for the demonstration. The timing of this police action has made it certain, too, that the general election in 1968 will be held just after the treason trials or while they are still in full swing. It is therefore highly possible that the trials will last for 22 months to two years. The atmosphere of tension and suspicion bound to be caused by the trials will probably suit the Nationalist election campaign very well.

The arrests have given an added significance to the action of the United Nations in obtaining the enactment of an amendment which provides that a special court of two or three judges may be constituted to deal with cases of treason. Mass treason trials may be set up such a hand-picked court now, even if the charges are subsequently reduced to minor offences. Treason is punishable by death in South Africa.

**O**NEY person convicted of treason has ever been given the death sentence, and this was commuted to a life sentence. This man was Robert Leibbrandt, a South African who went to Germany before the war and during the war was landed on the South African coast by a German submarine. He and four others were released when the Germans came to power in 1945. In granting amnesty, the Minister of Justice, Mr. Swart, referred to Leibbrandt and two others convicted of broadcasting from Egypt, and two men convicted for blowing up a post office, as "political prisoners."

Opposite, December 20, 1968.

Mr. and Mrs. A. Alawi

are happy to announce the

Birth

of their daughter — Audrey

Assia Hospital, Tel Aviv, December 18, 1968.

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PAGE TWO

## LAW REPORT The Jerusalem Post December 13, 1956

## Social &amp; Personal

The President yesterday received the Minister of Commerce and Industry, Mr. Pinhas Sapir.

The Argentine Ambassador and his wife visited the Bar Ilan University on Tuesday.

Dr. Yacov van der Houten, of the Institute of Biological Research, has been appointed Professor of Bacteriology at the Hebrew University-Judaean Academic School. Dr. van der Houten headed the Epidemiology Department of the Institute and won a Rothschild Prize this year.

The World Jewish Congress yesterday held a reception for Dr. Arieh Tarakow, chairman of the Israel Executive of the organization, on the occasion of the publication of his latest book, "Jewish Sociology." The reception was held at the President Hotel in Jerusalem.

Mr. and Mrs. S. Tolkowsky are residing temporarily at Pension Ganim, 5 Rehov Ben Yosef, Ramat Gan.

Dr. E. Ashton, Lecturer in History of Modern Peoples at the Hebrew University, will speak (in Hebrew) on "Impressions of an Israel Orientalist's Visit to Spain," under the joint auspices of the Israel Oriental Society at the University and the B'nai B'rith Hillel Foundation, 1 Hillel House, at 8:30 p.m. today.

Dr. Benszon Kadouri, Director of Education of the Tel Aviv-Jaffa Municipality, will address the Tel Aviv-Jaffa Rotary Club on "Educational Problems" at the ZOA House at 1:15 p.m. today.

Mr. Frankel and Mr. Nathan appeared for the appellants. Mr. M. Caspi for Mr. Ayan.

## Judgment

Justice Landau, with whom Justices Cheshin and Silberg concurred, set out the facts of the case and then considered it from two aspects: finally, whether Mr. Mann had any authority to sign the undertaking on behalf of the company; and secondly, whether even if he had not had this authority, the respondent had been justified in assuming that he had, or that the undertaking had been confirmed by the board of directors.

In examining the first aspect, Justice Landau analyzed the relevant clauses in the articles of the Shimshon company and concluded that it was possible to interpret them as meaning that the board of directors could delegate such of their powers as they deemed fit to the managing director. While the board had not done so, and on occasion stated explicitly what functions they were delegating to the managing director, it was reasonable to assume, from the very fact that they had appointed a managing director and given him the right to sign documents on behalf of the company, that they had assigned all the powers usually assigned to managing directors.

The next question to be answered, therefore, was whether Mr. Mann, as managing director, had the authority to sign the particular undertaking given to the respondent on behalf of the company. In answering this question in the negative, Justice Landau discussed the various private agreements between Mr. Mann and the respondent, holding that the

inevitable conclusion to be reached was that Mr. Mann had exploited the company for his private ends. A director of a company, including a managing director, who performs certain acts for his own private benefit, and not for the benefit of the company, or who gives up his private business with that of the company as Mr. Mann had done, exceeds his authority as a director, such acts not binding the company. In signing the undertaking to the respondent, Mr. Mann had not had the benefit of the company's agreement to his terms, and his signature therefore did not bind the company.

(C.A. 210, 211/53)

## Company Responsible For Director's Undertaking

The Supreme Court allowed an appeal against a judgment of the Tel Aviv District Court delivered on July 23, 1953 (C.C. 215/53).

Mr. Ayan, a lawyer by profession, claimed a great deal of effort to have the Shimshon Company to acquire the necessary permits for erecting a factory in Ramat Gan. The Managing Director of the company, Mr. Yosef Mann, in a written undertaking dated August 18, 1942, undertook to keep a most diligent watch over the interests of the factory and to pay him, in addition, 20% of all benefits, including shares in the Shimshon Company and in other companies of the group, as a result of the final setting up of the cement factory. Mr. Ayan and Mr. Mann had agreed on various payments relating to all manner of business affairs, including the Shimshon company. In connection with the writer, Mr. Mann's interest when and if he should become a member of the board of the company, and also undertook to give Mr. Mann 50% of his net earnings as a result of his services to the company under the above undertaking.

In 1945, on the settlement of the undertaking, he was awarded IL62,500 in interest and costs by the Tel Aviv District Court. This sum bore 9% on the value of the machinery and equipment of the Shimshon Company at that time.

The company appealed against the decision, claiming that the undertaking was not binding on them since Mr. Mann had had no authority to sign it on their behalf.

Mr. Ayan counter-argued that he had signed an undertaking to be entitled to 12,456 shares in the Shimshon company and 1,145 shares in the S.P.F. company, in accordance with the undertaking.

Mr. Frankel and Mr. Nathan appeared for the appellants. Mr. M. Caspi for Mr. Ayan.

## BEN-GURION

(Continued from Page One)

Patrol was charged with the implementation and supervision of the curfew, and the hours were fixed from 5 p.m. to 6 a.m. The villagers in general complied with the curfew order.

In a few villages, some of the inhabitants were incoherently returning to their homes after the curfew hours and a number of them were killed by members of the Border Patrol. Men, women and children were among the victims.

As soon as I was informed

of that terrible occurrence on November 4, I appointed an Inquiry Committee, headed by District Judge Benjamin Zohar, to establish:

The circumstances of the events which took place in the villages on October 20;

The degree of responsibility of the personnel of the Border Patrol (officers and other ranks) and whether they should be held for trial;

The compensation which the Government should pay in consequence of the acts of the members of the Border Patrol.

As to Mr. Caspi's argument

that the board had subsequently ratified the undertaking, no proof of this could be found in the minutes of meetings of the board. The minutes book was admittedly kept in a most negligent manner, notwithstanding the fact that it was disposed to remove and destroy pages but no positive proof that this had actually been done had been submitted.

Turning to the second aspect of the case, Justice Landau said that in the leading case on the question of presumed authority of a director (Royal British Bank v. Turquand) it had been held that it is sufficient for a director to have done "deeds" dealing with the director of a company to examine the articles of the company and see whether the director could have the power which he purports to exercise. The argument of presumed authority, however, is applicable only when a man, an outsider, who is not acquainted with the affairs of the company and acts in good faith: none of these criteria could be applied to the respondent who, as an advocate, must inevitably have understood that his transactions with Mr. Mann, as managing director of the company, were a far cry from the ordinary course of business of the company.

The Committee commanded the Army authorities to promptly supply it with all the material it requested for its inquiry.

The Committee also emphasized that the heads of the villages affected and their families have shown appreciation of the Government's attitude, its grave concern and its speedy action in this matter. I should also like to point out that during the period of hostilities the Army has been in all parts of the country, both among the settled population and the Bedouin tribes.

The Committee submitted its report on November 6, and on the same day I issued an official statement to the Press.

In accordance with the Committee's conclusions, the Commander of the Border Patrol unit and a number of his subordinates, his command, who carried out an illegal order, have been committed for trial.

The report was of course, immediately submitted to the Government, and it was decided to make an immediate advance payment of IL1,000 to the families of those killed.

The Zionist Committee was asked to establish with the utmost celerity the amount of the compensation due to each family affected.

The Minister of Police visited the villages immediately after the event, and expressed to the villagers and their representatives his own grief and that of the Government at the profound sense of shock caused by this tragic occurrence.

In accordance with the Committee's report, which was submitted a few days later, those affected were paid compensation in sums of IL1,000 to IL10,000. It is clear that no sum of money can possibly compensate for the loss of human life.

Blow to Morality

I do not wish to commit contempt of court, so I shall give no opinion to the guilt of the transports who have been tried on trial. But I feel it is my duty, as behalf of the Government, the Police Forces and myself, to express profound anxiety at the fact that such an act was possible—an act which strikes a blow at the most sacred foundations of human morality.

The Jewish people and all the

best of the human race have

done much to make this

occurrence.

In accordance with the Committee's report, which was submitted a few days later, those affected were paid compensation in sums of IL1,000 to IL10,000. It is clear that no sum of money can possibly compensate for the loss of human life.

Appeal dismissed with IL100 costs.

Judgment given on December 6, 1956.

Mr. Frankel and Mr. Nathan, holding that the

always been justly proud of their respect for human life. Men shall do no more than the greatest among which is the respect on Menat Shalom.

There is no people in the world which holds human life dearer than the Jewish people, and this means the life of every human being, without distinction of sex, race, religion or nationality. We have learned that Adam was created in the image of God — and as such he was the crown of his skin, and he did not long to any particular people — he was only Adam — Man.

And so as to leave no doubt in anyone's heart that no distinction must be made between one human being and another; it was said in our Torah: "And if a stranger sojourns with thee in thy land, then shall not his son be invalid." But this is not so, for he who dwelt with them shall be as one born among them, and that shall love him as himself."

Not only is there to be one law for the stranger and the citizen, but the stranger living amongst us is to be treated with love. The Arabs are not aliens, they are neighbors, but neighbors with fundamentally equal rights. In regard to human life, furthermore, the civil status of any man makes no difference. The lives of all men are sacred.

These two sacred principles have been flagrantly violated in this terrible case. I am certain that the entire Knesset will join with me in the feeling that I have attempted to express in this statement. Let nothing like this ever happen again to Israel.

Those who are found guilty will no doubt receive the punishment. I should like to note with satisfaction that the heads of the villages affected and their families have shown appreciation of the Government's attitude, its grave concern and its speedy action in this matter. I should also like to point out that during the period of hostilities the Army has been in all parts of the country, both among the settled population and the Bedouin tribes.

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**THE** reasons are apparent why the Government should have preferred to wait until the tensions of the Sinai campaign had somewhat subsided before

**POLICE** making a statement in

ON TRIAL the Knesset

on the shocking incidents in the eastern border villages, where a number of Arabs were killed for breaking the curfew imposed on the eve of the move into Sinai. It remains to ask why further details as provided by the report of the three-man enquiry committee, should not have been made public, or at the very least the number of persons killed.

While there was some pressure for an earlier and more thorough airing of this matter, the essential action was, however, taken with admirable promptitude, both as regards the ascertaining of the facts of the case, and the immediate payment of some compensation to families who lost their breadwinner. The promptness bore fruit, for the villagers were reassured that their lives were not valued lightly, and there was complete calm and confidence among the Arab citizens of Israel during the fighting with Egypt, a fact which has perhaps not yet been recognized in its full significance. Such brutal abuse of power by police personnel even before the fighting had begun was well calculated to cause panic among Arab villagers, or the kind of mass movement that might have seriously embarrassed the security authorities. There is thus double reason to demand exemplary punishment for those who were responsible for acts which were both criminally callous on the human level, and a political blunder which might have had the most serious consequences.

Furthermore, as a systematic attempt has been made by the Communists to extract political profit from this crime, much whispering and slander could probably be saved if the trials were to be open to public.

The Government's first duty will now be to make certain that no one in Israel, and more particularly no member of the police or armed forces, and no man or woman in a position of authority, could ever again suppose that brutality toward the Arab population would be condoned, or even hushed up in order to avoid unpleasantness. This must be done to prevent any repetition of such shameful incidents, and also in order that we may not all share in the guilt of those who committed the crime on this occasion. The existence of Arab villages in border areas infested with fedayeen poses a security problem of almost insoluble difficulty, and demands a degree of watchfulness and inventiveness on the part of the Border Police that is well-nigh superhuman. This strain and difficulty might have explained, if not excused, minor incidents during a political crisis such as that which preceded the beginning of the Sinai incursion; nobody and nothing can explain a mass murder except the wanton and criminal desire on the part of a man to kill his fellows.

Mr. Ben-Gurion's statement was, as might have been expected, human and dignified. In giving expression to his detestation of the acts, he was following the dictates of his own conscience and that of the Government, not replying to outside accusers. It is good that in this matter of the position and rights of the Arab minority every man in Israel should look into his own heart, and also some outside Israel who pay lip-service to the cause of peace. The Prime Minister spoke of the sanctity of human life as the highest principle of Jewish law. This law has been grievously broken for a period of many years, in a country and among a people that have seen their lives wantonly sacrificed at every step. It is the profound hope of the people of Israel that the time is at length coming when life will again be held a sacred throughout this part of the world and then, surely, this country will not be found wanting.

## Morocco Out to Efface Berbers Language, Customs Under Cloud Since Independence

By STEPHEN O. HUGHES

RABAT (O.P.N.S.)

**T**HE Moroccan Government is in the process of obliterating the identity of six million people, so far without firing a shot or spilling a drop of blood. They are the Berbers, an otherwise group of people quite distinct from the Arabs. In Morocco Berbers are big-horned and bearded warrior tribesmen of the rural areas who make up at least 80 per cent of the population. They are a white race with some Arab, Jewish and Negro blood in their veins.

According to local nationalists, the Berbers are a myth created by France for the purpose of dividing and ruling the country during the protectorate, and as such they represent "vestiges of colonialism" which must be eradicated in the process of independence. The method employed is a political-social genocide, an attempt literally to erase their name and identity. Guide books, and similar official literature published by the French are being destroyed, revised or replaced, references to Berbers are omitted in the publications. A new decree establishes so-called Berber customary law and substitutes the Shari or Islamic code.

For over 1,000 years some 400 Berber tribes lived in more or less autonomous regions, separated by ancient customs. When the French arrived they sought to give formal recognition to this state of affairs by getting the present Sultan to sign a decree in 1930 which made customs law official.

**Berber Sultans**  
The French and even some Moroccans believe that a majority of Berbers are less "Islamized" than people of the coastal areas. But the Berbers themselves are convinced they are excellent God-fearing Moslems, which seems to be the only thing that matters. Moreover, Morocco's nationalists want Berbers. They founded the Ahmed and Almoravid dynasties (11th-13th centuries), embraced Islam and Arabic culture and raised them to heights that have never been attained since in Morocco, according to the top of Africa as far as Tripoli and the whole of Spain.

If this was false, presumably being vigorously prodded by French and North African, the divide-and-rule policy was certainly practised, whatever the original motives for the Berber Decree. The French have a romantic admiration for the Berbers, it took them over 20 years to "pacify" them, but they preferred the ferocious fighters to the more docile neurotic nationalists of the time.

The French justified their policy with the "democratic" logic that the majority of six million Berbers should prevail over the minority of city-bred nationalists, forget-

PEACE FRIENDS  
G. R. SMITH, 27, Tebodin Street, Cheltenham, England, would like to make friends from Israel. He is very interested in our heroic fight for existence. He is young and was writing letters from all over the world.

A. Y. ZAGHAG, 30, Boston Street, Bowes Bay No. 1, India, would like pen friends from Israel.

## KEEPING POSTED

**M**rs. Moshe Sharett, who has just returned from his long tour of the Far East, says, with a sigh that as far as shoeing goes, Israel is at least 800 years behind those parts of Asia. "They never shoot. They don't argue. Their manner is always pleasant." This must be a great deal to those from the United States and Australia. Both countries have now been overwhelmed by the craze for worshipping James Dean, the young film actor who was killed in a motor accident not unlike that which he staged as a young delinquent in "Rebel Without a Cause." A picture recently shown here even here, the film was a major success, and with a good deal of justification but we have heard of no clubs being formed to propagate the belief that young Dean is still alive, and still less of hysterical sobbing girls holding to their careers for the theatre in a state of collapse, as in Sydney. "Others have reacted from the theatre glassy-eyed, and youths in Dean rig of blue jeans and tee-shirt have been transfixed through as many as four screenings," reports a Sydney paper.

"Several girls are reported to have rigged up tiny shrines, with crosses bearing in front of Dean's photo, as to 'worship' his memory. Others obsessed with the idea that Dean is still alive, write to him regularly."

**B**UT India is poor. "At its lowest level, even poorer than the lowest level in Egypt, and for the same reason, there are no books of bibles, neither cattle nor even donkeys, because men would rather carry the burdens themselves than share the available food with animals. What do they eat? Rice. Did they not even have rice? Mr. Sharett didn't know.

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